



DEPARTMENT OF BUSINESS AND INDUSTRY
NEVADA TRANSPORTATION AUTHORITY

MINUTES OF THE OCTOBER 27, 2011 GENERAL MEETING

1. Call to Order

Chairman MacKay called the General Session to Order at approximately 9:35a.m.

2. Roll Call

Present in Las Vegas: Chairman Andrew J. MacKay, Commissioner Michael J. Klobberdanz, Commissioner Monica B Metz, Administrative Attorney James Day, Applications Manager Liz Babcock, Financial Analyst Yvonne Shelton, Financial Analyst Lidia Aronova, Chief of Enforcement Michael Bradford, Senior Deputy Attorney General David Newton. Deputy Commissioner Marilyn Skibinski was excused absent.

3. Pledge of Allegiance

Chairman MacKay led a recital of the Pledge.

4. Public Comment:

None

5. Approval of Agenda

Administrative Attorney James Day requested Item numbers 10 and 20 be removed from the Agenda, and asked that Item 47 be considered separately as the Respondent was present and wished to request a modification of the Hearing Officer's findings and recommendations. Approved 3-0 as amended.

6. Approval of the Minutes of the September 15, 2011 Agenda Meeting

Approved 3-0

7. Briefings from the Commissioners

Chairman MacKay and Commissioner Metz thanked Senior Deputy Attorney General Newton for his outstanding contributions.

8. Briefing from the Deputy Commissioner

None

9. Report of Legal Counsel

Senior Deputy Attorney General Newton reported that he had requested oral argument on the pending Motion to Amend the final order in the Omni matter and that later this evening Las Vegas Channel 3 will be airing a news segment regarding booting in Clark County.

Applications for Fully Regulated Carriers

10. Docket No. 09-12007 The Application of Viva Las Vegas Tour & Travel, Inc. to operate as a contract motor carrier of passengers within the State of Nevada. (AJM)

Removed prior to consideration.

11. Docket No. 09-12029 The Application of J & R Quality Movers, LLC for a CPCN to provide the transportation of household goods within the State of Nevada. (MBM)

Owner Rolando Garcia was present on behalf of the Applicant. Commissioner Metz summarized the Application and recommended approval. Approved 3-0

12. Docket No. 11-09017 The Application of Martin Ross & Associates, LLC for a contract carrier permit to provide prisoner transportation services pursuant to a contract with the State of Nevada. Applicant's request for interim/temporary approval of their Application due to exigent circumstances. Staff investigation of Request concluded. (AJM)

Chairman MacKay summarized the Request. Gary Dierks was present on behalf of the Applicant. Mr. Dierks described the basis for the Request and the qualifications of the Applicant. Applications Manager Liz Babcock stated that Staff did not find exigent circumstances requiring interim approval of the Application as Trade Show Services is currently certificated to provide the required services. Steve Sammut, Senior Director of Trade Show Services, stated that his company has been operating statewide, with about 25% of their transports occurring in northern Nevada. In response to questions from Commissioner Metz, Mr. Sammut stated that they currently have 2 vehicles in northern Nevada and can add more; that they are operating under temporary authority; and that he believes they have met all the demands of Nevada Parole and Probation. Liz Babcock stated that Trade Show Services is expected to be on the December Agenda for final consideration. Commissioner Metz stated that she opposed the Application, noting that a certificated carrier is willing and able to meet the demand and that Staff had noted some deficiencies in the Applicant's financial fitness. Commissioner Kloberdanz and Chairman MacKay stated their concurrence with the comments offered by Commissioner Metz. Chairman MacKay added that denial of the request for interim approval does not reflect any predisposition on the overall Application. Senior Deputy Attorney General Newton noted that the Applicant could again request interim approval in the future if it is able to provide evidence of an unmet need. Request for interim approval denied 3-0.

Financial Rates and Tariffs

13. Docket No. 10-05023-B The Application of Fast Towing, Inc. for approval of a tariff rate modification for tow car services conducted under CPCN 7161. Staff investigation concluded.

Staff supports Application. Approved 3-0

14. Docket No. 11-06006 The Application of Hanneman Service, LLC for approval of a tariff rate modification for tow car services conducted under CPCN 3155, Sub 1. Staff investigation concluded.

Financial Analyst Aronova expressed Staff support for the Application and noted that certain minor corrections will be finalized before approval of the final tariff pages. Approved 3-0

15. Docket No. 11-08004 The Application of Omni Limousine, Inc. for approval of a tariff rate modification for airport transfer and special services anticipated to be conducted under CPCN 2076, Sub 2. Staff investigation concluded.

Attorney James S. Kent was present on behalf of the Applicant. Mr. Kent summarized the basis for the Application. Mr. Kent argued that there is no statutory or regulatory prohibition to including in the tariff rates for services not provided.

Authority members noted that a recent advisory opinion stated rates may not be included in a tariff for services not provided by a carrier. Further, Chairman MacKay noted that the carrier in this matter lacks the operating authority for which it wishes to add a rate.

Kimberly Maxson-Rushton was present on behalf of Livery Operators Association. Discussion ensued as to tariffs offered when type of vehicle is not in fleet and the legality of publication of such tariff. Application denied 3-0

16. Docket No. 11-09014 The Application of CUSA K-TCS, LLC d/b/a CoachAmerica for approval of a tariff rate modification for special services conducted under CPCN 2016, Sub 2. Staff investigation concluded.

Items 16 and 17 were considered jointly. Chairman MacKay summarized the Applications. Financial Analyst Shelton expressed Staff support for the Applications. Both items approved 3-0.

17. Docket No. 11-09023 The Application of CUSA K-TCS, LLC d/b/a CoachAmerica for approval of a tariff rate modification for special services conducted under CPCN 2016, Sub 2. Staff investigation concluded.

Considered with Item 16.

18. Docket No. 11-09026 The Application of Bell Trans for approval of a tariff rate modification for charter limousine services conducted under CPCN 1023, Sub 1. Staff investigation concluded.

Attorney Jeff Silver was present on behalf of the Applicant and explained the motivation for the Application. In response to a question from Commissioner Metz, Mr. Silver stated that the Applicant was willing to amend the Application to seek no change in liability for lost baggage. Mr. Silver agreed to amend the request to seek \$250.00 as the limit for liability for lost baggage. Approved 3-0 as amended.

19. Docket No. 11-10003 The Application of Open Top Sightseeing Las Vegas, LLC for approval of a tariff rate modification for regular route and scenic tour services conducted under CPCN 2004, Sub 9. Staff investigation concluded.

Attorney Kimberly Maxson-Rushton was present on behalf of the Applicant. Ms. Rushton noted that the Applicant does not possess charter limousine authority and the request in fact relates to special services and scenic tours. In response to a question from Commissioner Metz, Ms. Rushton stated that although the company has struggled, the rates are part of a plan to improve ridership and revenues. Financial Analyst Shelton noted Staff's support for the Application and that, while Applicant's \$25 night tour rate is similar to a \$20 rate offered by other carriers, the Applicant has no minimum passenger requirement. Ms. Rushton noted that the night tour bus would concurrently provide services to other passengers. In response to a question from Chairman MacKay regarding Rule 60, Ms. Rushton agreed to clarify in Rule 60 that the hours listed therein apply to the operation of the regular route service. Approved 3-0

Commissioner Metz asked that Item 35 be considered separately for discussion and to amend Item 19 on the agenda to replace "charter limousine services" with "scenic tour, special services and per capita regular route services."

Advisory Opinion

20. Docket No. 11-09033 At the Authority's September 15, 2011 general session, the Authority voted to issue an advisory opinion pursuant to NAC 706.4007 addressing the following question: May a carrier in

its tariff include rates for services and/or types of equipment that the carrier does not in fact provide? The Authority will consider proposed language for such an opinion and may issue a final advisory opinion in this matter. (MBM)

Removed prior to consideration.

Discussion Item

21. Docket No. 11-07001 Authority adoption of a model tow tariff as required by LCB File No. R112-10, Section 1. The Authority will consider the Presiding Officer's recommendations and may adopt a model tow tariff in this matter (a copy of the model tow tariff as proposed by the Presiding Officer will be available no later than 5:00 p.m. on Friday, October 21, 2011 at www.nta.nv.gov). (MBM)

Chairman MacKay thanked Commissioner Metz for her enormous efforts in this matter. Commissioner Metz thanked Staff for their work and the research involved in this matter. Commissioner Metz summarized and recommended adoption by the Authority. John Rubens with AAA, commended staff with regard to model. David Walker of Walker Towing stated that he believes carriers will need more than 60 days to prepare for implementation. Commissioner Metz noted that the definition of "dolly" would be clarified. Approved 3-0 as amended.

Petitions to Deviate from Regulations

22. Docket No. 11-10001 The Petition to Deviate from Regulations filed pursuant to NAC 706.1305 by On Demand Sedan Services, Inc. d/b/a ODS Limousine (CPCN 1040.3 and 2063.1) seeking Authority approval for the Petitioner to stage vehicles at the passenger curb loading zone of The Cosmopolitan of Las Vegas without displaying the signs required by NAC 706.228(3) as amended by LCB File No. R127-07. (AJM)

General Manager, Rich Frakes was present on behalf of the Petitioner. Mr. Frakes stated that the Petitioner has an exclusive agreement to provide charter limousine service for the Cosmopolitan Hotel. Discussion ensued as to availability of rates to Cosmopolitan concierge and door staff. Approved 3-0 prospectively only and for the duration of the Petitioner's agreement to serve as preferred carrier at the Cosmopolitan.

23. Docket No. 11-10006 The Petition to Deviate from Regulations filed pursuant to NAC 706.1305 by King of the Road, Inc. dba Van-2-School (CPCN 2011.1) seeking Authority approval for a reduction of the insurance coverage requirements set forth in NAC 706.191. (AJM)

President Gloria Ramzi was present on behalf of the Applicant. Ms. Ramzi stated that she was previously required to carry \$1 million in liability insurance coverage, but the Authority now requires \$5 million; that carrier's operations occur while driving at 20mph or less and predominantly in school zones; that the \$5 million requirement is burdensome; that the carrier's clientele is low income and cannot afford a rate increase; that they have been in operation for 33 years with no accident claims; that they operate only one vehicle due to high insurance rate of almost \$4,000.00 annually; and that the vehicle is a standard full-sized school bus. In response to a question from Commissioner Metz, Ms. Ramzi stated that it was not economically viable to use smaller vehicles with the lower \$1.5 million insurance coverage requirement. Commissioner Klobardanz stated that he could not support insurance in an amount less than \$5 million based on the description of the operations. Commissioner Metz suggested that the Authority might be able to allow a deviation for extended periods of time during which the vehicle is not being utilized (such as summer break) if the carrier could work out the reduced coverage amount with her insurance carrier. The Applicant stated that she would file a subsequent request limited to such time periods. Request to Deviate denied 3-0.

**Application for Certificate of Public Convenience and Necessity
to Provide Charter Bus Service**

24. Docket No. 11-07011 The Application of VIP Transportation of Nevada, LLC for a CPCN to provide charter bus service within the State of Nevada. Staff investigation concluded.
Approved 3-0.

Voluntary Cancellation

25. Docket No. 11-09008 The voluntary cancellation by Jose Luis Desiderio d/b/a AutoMove, of CPCN 7254. Staff investigation concluded.
Order to issue requiring carrier to return tow plates and remove CPCN markings from vehicle. Approved 3-0.

Name Change

26. Docket No. 11-07010 The Petition of Bell Trans to change their name to Bell Limousine for charter limousine services conducted under CPCN 1023, Sub 1. Staff investigation concluded.
Attorney Jeffrey Silver was present on behalf of Bell Trans and summarized the Petition. Approved 3-0.

Administrative Citations and Impoundments

All Items in this section except Items 35 and 47 were considered collectively and Approved 3-0.

- 27. Citation 14180** issued to Ronald E. Taylor for a violation of NAC 706 as amended by LCB File No. R127-07(1). (AJM)
- 28. Citation 15384** issued to Personal Sedan Service for violations of NAC 706.191 and NRS 706.398. (MJK)
- 29. Citation 15515** issued to Marcello Thedford for violations of NRS 706.386 and NRS 706.758. (MJK)
- 30. Citations 15556 and 15557** issued to Around the Clock for violations of NAC 706.247/49 CFR 391.43, NAC 706.247/49CFR 391.25 (4 counts) and NAC 706.247/49CFR 382.305. (MJK)
- 31. Impound 1908** The impoundment pursuant to NRS 706.476 of a vehicle registered to Ethel McGee. (MJK)
- 32. Impound 1762 and Citation 15590** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15590 issued to Christopher McKnight for violations of NRS 706.386 and NRS 706.758. (MJK)
- 33. Citations 15448 and 15449** issued to S & S Moving, Inc. for violations of NRS 706.398, NAC 706.191, and NAC 706.206. (MBM)
- 34. Citation 15474** issued to Jeremy R. Keen for violations of NAC 706.228(4) as amended by LCB File No. R127-07 and NAC 706.228(5) as amended by LCB File No. R127-07. (MBM)

35. Citation 15482 issued to Alelegn Ketsela Alene for violations of NAC 706 as amended by LCB File No. R127-07(1) and NAC 706.228(3) as amended by LCB File No. R127-07. (MBM)

Prior to consideration by the Authority, Mr. Alene requested that his failure to appear be set aside. The request was granted by Commissioner Metz in her capacity as Hearing Officer in the matter. Tabled by a vote of 3-0.

36. Citation 15485 issued to Alula B. Ejigu for a violation of NAC 706.228(3) as amended by LCB File No. R127-07. (MBM)

37. Citations 15486 and 15487 issued to Myron Delin Todd for violations of NAC 706.329, NAC 706.228 and NAC 706.354. (MBM)

38. Citation 15488 issued to Dawit Bisrat Mosazgi for a violation of NAC 706.361. (MBM)

39. Citation 15489 issued to Luis Pascual III for violations of NAC 706.329 and NRS 706.758. (MBM)

40. Citation 15493 issued to Philip DeGraviet for violations of NRS 706.386 and NRS 706.758. (MBM)

41. Citation 15508 issued to RET Services, Inc. for violations of NAC 706.247/49 CFR 391.11 and NAC 706.3612. (MBM)

42. Citation 15509 issued to Alvin James Dixon for violations of NRS 706.386 and NRS 706.758. (MBM)

43. Citation 15552 issued to Cheep Cheep Movers, Inc. for violations of NRS 706.167 and NRS 706.398. (MBM)

44. Citations 15576 and 15577 issued to Roy C. McIntyre for violations of NAC 706.247/49 CFR 391.41, NAC 706 as amended by LCB File No. R127-07(1), NAC 706.228(3) as amended by LCB File No. R127-07, and NAC 706.228(4) as amended by LCB File No. R127-07. (MBM)

45. Impound 1911 The impoundment pursuant to NRS 706.476 of a vehicle registered to Darlene Prindle Graviet. (MBM)

46. Impound 1896 and Citation 15314 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15314 issued to Anthony Dannunzio for violations of NRS 706.386 and NRS 706.758. (MBM)

47. Impound 1898 and Citation 15584 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15584 issued to Ky Shrode for violations of NRS 706.386 and NRS 706.758. (MBM)

Mr. Shrode was present and requested that the Authority not order his telephone number disconnected based on his use of the telephone number in numerous employment applications. Commissioner Metz stated that evidence at the hearing established that Mr. Shrode was familiar with the regulated nature of the transportation industry and that she could not, therefore, conclude that the Respondent is unlikely to violate again. The Respondent stated that the fine has been an adequate deterrent; that he understands the consequences of a future violation; and that his job applications and resume have been submitted electronically with no opportunity to substitute a new telephone number. In light of this new evidence, Commissioner Metz agreed to modify the proposed Order to omit the requirement to disconnect the telephone number. Chairman MacKay

noted that the Authority also has the new deterrent of the ability to seek revocation of a driver's license for nonpayment of fines. Approved 3-0 as modified.

48. Citations 14123 and 14125 issued to Ryan's Express for violations of NAC 706.381(1) (16 counts) and NAC 706.247/49 CFR (47 counts).

49. Citation 15315 issued to Nicholas Ervin Myers for a violation of NAC 706.228 as amended by LCB File No. R127-07.

50. Citation 15383 issued to Portofino Tours, Inc. for violations of NRS 706.167 and NRS 706.398.

51. Citation 15484 issued to George Jacoub for violations of NAC 706.228 and NAC 706.247/49 CFR 391.41.

52. Citation 15494 issued to Kyle Warren Hall for a violation of NAC 706.228.3 as amended by LCB File No. R127-07.

53. Citation 15496 issued to Levon Ovassapian for a violation of NAC 706 as amended by LCB File No. R127-07(1).

54. Citation 15498 issued to Marvin Winfred Wilks for a violation of NAC 706.228 as amended by LCB File No. R127-07.

55. Citation 15582 issued to Vegas Valley Towing for violations of NAC 706 as amended by LCB File No. R075-08 (2 counts).

56. Citations 15592 and 15594 issued to On Demand Sedan, Inc. for violations of NAC 706.228 as amended by LCB File No. R127-07 (2 counts).

57. Public Comment

David Walker, Walker Towing, expressed concern as to the effect Senate Bill 142 would have on the towing industry with respect to the provision of bill regarding release of a vehicle to the insurance company. Recommendation was made by Senior Deputy Attorney General Newton that this item be placed on the December Agenda as a discussion item.

Senior Deputy Attorney General stated he had been to a CLE regarding the recent open meeting law changes and that a discussion ensued regarding how hearings are held. Senior Deputy Attorney General Newton stated a conference call would be held in the next few weeks to determine if the Authority should change current practice.

58. Adjournment

Chairman MacKay adjourned the General Session at approximately 12:25 p.m.